

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 684

CASE NO. 89-34C

(PUD & Map Amendment @ 1331 L Street)

February 11, 1991

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on November 5, 1990. At that hearing session, the Zoning Commission considered the application of Square 247 Associates Limited Partnership. The application requested approval of a Planned Unit Development (PUD) and related amendment to the Zoning Map of the District of Columbia, pursuant to Chapter 24 and Section 102, respectively, of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on November 27, 1989, requested consolidated review and approval of a PUD and related change of zoning from HR/SP-2 to C-4 for lots 71, 72, 86, 88, 89, 864 and 866 in Square 247 located at 1331 L Street, N.W.
2. The PUD site measures 18,456.17 square feet, is bounded by 13th, 14th and L Streets, and Massachusetts Avenue, N.W., and is presently improved with and used as a surface parking lot.
3. The application proposes the construction of a ten-story mixed-use commercial building with general office and some ground-floor retail uses.
4. The SP-2 District permits matter-of-right medium/high density development including all kinds of residential uses, with limited offices for non-profit organizations, trade associations and professionals permitted as a special exception requiring approval of the Board of Zoning Adjustment (BZA), to a maximum height of ninety feet, a maximum floor area ratio (FAR) of 6.0 for residential and 3.5 for other permitted uses, and a maximum lot occupancy of eighty percent for residential uses.
5. The C-4 District is the downtown core comprising the retail and office centers for both the District of

Columbia and the metropolitan area, and allows office, retail, housing and mixed uses to a maximum height of 110 feet or 130 feet, a maximum lot occupancy of one hundred percent, and a maximum FAR of 8.5 or 10.0, with the maximum height and FAR dependant upon the width of adjoining streets.

6. The HR (hotel/residential incentive overlay) permits development incentives for residential and hotel uses, only, to a maximum FAR of 8.5 and a maximum height, as permittted by the "Act to Regulate the Height of builings, June 1, 1910, as amended". The District is mapped in combination with other Districts.
7. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a first-stage PUD. The Commission may also impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified above for height, FAR, lot occupancy, parking, and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.
8. The District of Columbia Generalized Land Use Map Element of the Comprehensive Plan for the National Capital identifies the PUD site as being included in the high density residential and high density commercial land use categories.
9. The PUD site is located in an square that is directly southeast of Thomas Circle and comprises seven adjoining lots fronting on L Street. The lots create a rectangular shaped property that is approximately 113 feet wide and 164 feet deep. The property is flat and it abuts a 15-foot wide public alley to the north. A series of alleyways that together produce an odd configuration are located in the square. The site is accessible through the alley system from Massachusetts Avenue, 14th Street and L Street.
10. The site is located in the Downtown Central Business District (CBD). It is also situated in the northwestern section of the central city, in the Franklin Square subarea. Office development is the primary land use in the area. Subordinate uses close to the site are ground floor retail, hotel and residential development.
11. A tremendous amount of new development has occurred to the east, west and south of the site within the last several years. Ten and 12-story office buildings typify the pattern of new development. Older office buildings, some of which are developed at moderate or low density,

are interwoven among the new structures.

12. Massachusetts Avenue is an important demarcation point in Downtown. It is located immediately north of the site and is the northern boundary of the CBD. Massachusetts Avenue has historically served as a transition between the dense commercial development of Downtown to the south and the mixed use/residential development to the north.
13. Franklin Park, located one block south of the site, provides an important amenity for the area. It is an historic site and a well planned open space in the built environment. The McPherson Square Metrorail Station, located at 14th and I Streets, N.W., is the closest metrorail station to the site.
14. Square 247 contains three different zoning characteristics; therefore, a variety of land uses and building types exist in the square. Specifically, the section of the square that fronts on 14th Street, or the western portion of the square is zoned C-4. This area contains an 11-story Holiday Inn hotel, high-rise office buildings and underused commercial space. To the north, fronting on Massachusetts Avenue, the square is zoned SP-2. High-rise residential development is located in this area. To the south and east, the square is zoned HP/SP-2. The land uses in this portion of the square are commercial and vacant land. The interior of the square which contains three nonconforming commercial buildings is also zoned HR/SP-2.
15. The applicant proposes to construct a ten-story commercial building, including office and retail uses. The proposal will have a maximum height of 110 feet, a maximum FAR of 9.25, a maximum lot occupancy of ninety-eight (98) percent, with gross floor area of 170,720 square feet (156,648 square feet for office use and 11,072 square feet for retail use), and two-levels of underground parking to accommodate 94 cars.
16. The representative of the applicant was contacted early in the planning stages of this project by Mr. Malcolm Peabody, the developer of the PUD at 5th and I Streets, N.W., who was working with the Office of Planning, to establish a funding linkage for the Massachusetts Court PUD. Because the projects had similar time frames, were of a similar size, and appeared to be compatible, the applicant determined to work with Mr. Peabody to ensure the provision of housing in the Downtown. The applicant was encouraged by the community to enter into the project

to ensure the development of 209 housing units in the Downtown, of which 84 units were for low and moderate income families.

17. In association with the PUD project at 1331 L Street, the applicant proposes the following amenities and public benefits:
- a. Housing: Funds in the amount of \$3,062,000 to enable the construction of 209 housing units as part of the Peabody PUD at 5th and I Streets, N.W. The applicant will provide the \$3,062,000 amount to the East End Limited Partnership, the developer of the Peabody PUD site, upon the closing of the HUD insured construction loan.
 - b. Design: A superbly designed mixed-use building in the Franklin Square area of Downtown, consistent with the Comprehensive Plan, the Land Use Element and the Downtown Plan.
 - c. Landscape Amenities: A streetscape program that meets and exceeds the Streetscape guidelines.
 - d. Traffic Circulation: An additional 2.5 feet of space by easement to enable the public alley to the east of the site to operate with an effective width of 20 feet.
 - e. MBOC: A Memorandum of Understanding with the Minority Business Opportunity Commission (MBOC), committing the applicant to use its best efforts to utilize certified minority business enterprises for a minimum of 35 percent of contracted development costs.
 - f. DOES: An Employment Agreement with the D.C. Department of Employment Services (DOES), committing the applicant to use DOES as its first source for recruitment, referral and placement of employees, and to use its best efforts to utilize D. C. residents for at least 51 percent of the jobs created by the project.
 - g. Real Estate Taxes: Increased real estate tax revenues.
18. Malcolm Peabody testified about the difficulties in financing his residential project in the Downtown. Although originally approved in January 1988, the project

has not gone forward due to the inability, despite intensive efforts, to obtain the financing necessary to close on the construction loan. Mr. Peabody noted the letter from the Department of Housing and Community Development, dated September 6, 1990, that commitments of subsidies to the project would expire on January 31, 1991, unless construction of the project began. Mr. Peabody indicated the need for an expedited decision in the subject case so that his project could go forward.

19. The applicant proposes to use the following building materials for the PUD project at 1331 L Street:

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| a. | Predominant masonry material | Light gray and limestone color architectural precast concrete |
| | accent | Grey and black flamed and polished granite |
| b. | Window mullions | Factory Painted Aluminum |
| c. | Office windows | Clear glass and glass with grey tint |
| d. | Retail windows mullions | Muntz Bronze Clad Aluminum Window Frames |
| e. | Retail windows | Clear Tempered Glass |
| f. | Retail awnings (optional) | Black and Grey with Muntz Bronze Accents |
| g. | Sidewalk pavers | D.C. standard precast concrete with grey granite, flamed and polished |

20. The applicant's architect requested flexibility in the following areas to ensure that minor refinements and improvements made during the process of design development and construction documents will be consistent with the intent of the proposed design:

- a. Varying the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, provided that the variations do not change the exterior configuration of the building;

- b. Making minor adjustments in the facade, window and balcony detailing, including the flexibility to shift the location of the doors to the retail uses on the ground floor and vary the type of paneling used on the retail frontage in order to accommodate the different types of retail uses;
- c. Varying the location and type of exterior lighting fixtures;
- d. Varying the species of plant materials;
- e. Varying landscape and paving details to accommodate utilities, requirements and minor refinements incorporating comments of the streetscape committee;
- f. Allowing the flexibility permitted, pursuant to the provisions of 11 DCMR, Chapter 24.

21. The applicant indicated that the PUD and rezoning from HR/SP-2 to C-4 are appropriate from a professional planning standpoint and are not inconsistent with the Comprehensive Plan. The site is located on the Generalized Land Use Map within an area designated for mixed use: high density commercial and high density residential. In Z.C. Order No. 637, for the PUD at 1301 L Street and 1312 Massachusetts Avenue, the Commission found that high-density residential development area along Massachusetts Avenue, and high-density commercial development for the rest of Square 247 was consistent with that designation. In particular, in Z.C. Order 637, the Commission found that parcel's rezoning to C-4 to be "appropriate because of the existing pattern of C-4 development in the immediate area, and within Square 247." That order makes clear that Massachusetts Avenue is a residential street and that the 1300 block of L Street is a commercial street. All of the surrounding area to the south, east and west is high density commercial. The requested change of zoning would be consistent with other uses in the major portion of the square, and most importantly, would not be inconsistent with the Comprehensive Plan.

22. The applicant further indicated that the project is consistent with the standards and goals of Section 2400 of the Zoning Regulations. The 1331 L Street site is not appropriate for residential use. The site lacks any residential amenities and is located on a commercial street. No changes in the commercial character of the

area are expected; L Street will remain commercial.

23. The applicant's residential expert testified that the size of site restricts residential development. The site is too small for two separate structures, too deep for marketable units, and that experience in the Mixed Use (CR) zone indicates that layered commercial/residential does not work from an economic or consumer standpoint. He conclude that the Peabody site is logical for residential use and that the Peabody PUD is perhjaps the only opportunity for low and moderate income units to be developed within the Downtown.
24. The District of Columbia Office of Planning (OP), by memorandum dated May 16, 1990 and by testimony presented at the public hearing, recommended that the application be approved. OP indicated and stated the following:
- a. That "Development of the site would contribute to the continued commercial revitalization of the Franklin Square subarea. The pattern of development close to the site (south of Massachusetts Avenue) is high-rise office development with ground floor retail. Planned projects, those recently developed and buildings under construction are all indicators of the land use pattern that has emerged in the area. We, therefore, support the applicant's building plans to provide commercial development on the site and provide housing in the form of a subsidy off-site. We believe that the project would be an asset to the city generally, and that it would enhance the Downtown area specifically";
 - b. That the construction of the Peabody residential PUD was important to achieving the goals of the Downtown Element of the Comprehensive Plan and ensuring a "living downtown"; and
 - c. That either C-3-C or C-4 could be mapped as the underlying zone for the subject site. The advantages of C-4 area that the rezoning of the site could be accomplished by extending an existing C-4 zone district, whereas C-3-C would create a new District in the area. According to the OP report, the primary advantage of C-3-C is that it would provide a slight transition function between the proposed DD/R-5-D zoning to the north and the C-4 zoning to the south. This would not be inappropriate in such an important transition area

extending along Massachusetts Avenue.

25. The District of Columbia Department of Public Works (DPW), by memorandum dated May 15, 1990, reported that DPW had no major objections to the proposed PUD and indicated the following:
- a. That the site is conveniently located with respect to public transportation facilities and services;
 - b. That the proposal will have a negligible traffic impact on the surrounding street system;
 - c. That the loading facility is adequate to accommodate the project;
 - d. That the applicant provide a 2'-6" easement at the east property line of the PUD site in order to effect a 20 foot alley width;
 - e. That the applicant resurface that portion of the alley adjacent to the PUD; and
 - f. That the water service and sewer capacity are adequate.
- DPW concluded that the applicant should coordinate with the agency to resolve any outstanding concerns.
26. The District of Columbia Fire Department (DCFD), by report dated June 8, 1990, noted no objection to the proposal.
27. The District of Columbia Department of Recreation (DCDR), by report dated April 27, 1990, offered no substantive comments, since the development will have no measurable impact on recreation facilities and will not involve reservation of open space.
28. The District of Columbia Metropolitan Police Department (MPD), by report dated May 25, 1990, noted no objection to the proposal.
29. The District of Columbia Department of Housing and Community Development (DHCD), by reports dated May 23, 1990 and September 6, 1990, noted its repeated support for the Peabody PUD and its linkage with the PUD at 1331 L Street.
30. The District of Columbia Department of Finance and

Revenue (DFR), by report dated June 13, 1990, noted that the proposed development would produce an estimated \$1.5 million in tax revenues annually.

31. The District of Columbia Public Schools (DCPS), by report dated June 18, 1990, expressed no opposition to the proposed PUD.
32. Advisory Neighborhood Commission 2C, by letter dated May 3, 1990, recommended that the application be approved.
33. The Down East Corporation, party in the proceedings, by its representative, Malcolm Peabody, testified at the public hearing in support of the application in order to facilitate the PUD housing project at 5th and I Streets, N.W.
34. Letters in support of the application were received from Councilmembers John Ray dated October 31, 1990 and John Wilson dated November 5, 1990; the owners of 1335 and 1339 Green Court, N.W. dated May 8 and April 30, 1990, respectively; the Packaging Machinery Institute dated November 2, 1990; and the Coalition for a Living Downtown and the Downtown Clusters of Congregations dated November 2, 1990.
35. A concern raised by a person in support was to rezone 1331 L Street to C-3-C, in lieu of C-4.
36. Single Member District Commissioner 2C-11 testified at the public hearing in support of the application. No other parties or persons appeared at the public hearing in support of or in opposition to the application.
37. The Zoning Commission concurs with the recommendations and positions of OP, ANC-2C, DPW, DCFD, DCDR, MPD, DHCD, DFR, and DCPS. The Commission finds that:
 - a. The proposed 110 foot height and 9.25 FAR of the project are appropriate for this site and consistent with past Zoning Commission decisions for adjacent developments;
 - b. The proposed C-4 zoning is appropriate for this site and consistent with past Zoning Commission decisions for adjacent developments;
 - c. The applicant's efforts are commendable in working with the Peabody PUD, the community and the Office of Planning in developing this project to ensure

the development of 209 residential units (of which 84 units are for low and moderate income families) in the downtown; and

- d. In response to issues raised by the ANC, that the amenities provided by the applicant are sufficient to justify the approval of the additional density.
- 38. The Commission concurs with the applicant that the commercial project is appropriate for the site and is not inconsistent with the Comprehensive Plan.
- 39. The Commission finds that the applicant has met the requirements of 11 DCMR Chapter 24 and has satisfied the intent and purposes thereof.
- 40. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated February 8, 1991, indicated that the proposed PUD and related map amendment would not adversely affect the Federal Establishment or other Federal interests in the National Capital.
- 41. On February 11, 1991, at its regular monthly meeting, the Zoning Commission considered a letter dated January 31, 1991 from counsel to the applicant requesting the Commission to waive its rules of practice and procedure to reconsider an amendment to Condition No. 15 of this order. The applicant requested the Commission to extend the validity of the PUD for a period of time beyond that provided for by 11 DCMR 2406. The Commission also considered letters in support of the applicant's request from ANC-2C, and the representative of Down East Corporation, each of which are parties in support in the proceedings.
- 42. The Commission discussed the urgency associated with the financing constraints for the proposed 209 housing units at the Peabody PUD site. The Commission also discussed the applicant's claimed risk of providing more than \$3 million as an up-front amenity without some long-term vesting guarantees that the 1331 L Street PUD site could be developed as proposed.
- 43. The Commission finds that 11 DCMR 2406 as amended by rulemaking action on February 11, 1991, does not provide for the extension of the validity of the PUD, in the

manner requested by the applicant. However, substantially the same relief is available.

44. The Commission further finds the following to apply:
- a. That, in addition to, the general economic downturn that has adversely affected the local real estate economy, the proposed PUD housing project at 5th Street and Massachusetts Avenue, N.W. (Peabody site) has encountered some serious financing difficulties;
 - b. That a long-standing city policy to develop housing in the downtown area remains a policy and goals priority;
 - c. That any reasonable effort to facilitate the Peabody development is consistent with the city's policy and goals priority; and
 - d. That the applicant in the instant application may be at considerable risk to transfer more than \$3 million, as an amenity, to help facilitate financing the Peabody PUD project, without some long-term vesting guarantees.
45. The Commission therefore believes that, in its decision, it has adequately and appropriately addressed the above-mentioned concerns.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Chapter 24 to encourage the development of well-planned residential, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
3. The development of this PUD is compatible with city-wide goals, plans and programs and is sensitive to environmental protection and energy conservation.
4. Approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.

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5. The approval of this application is consistent with the purposes of the Zoning Act and the 1938 Act of Congress, the statutory bases for the authority vested in the Zoning Commission.
6. The application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia Zone Plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Zoning Commission has acccording to the Advisory Neighborhood Commission 2C the "great weight" to which it is entitled.
9. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of this application for a consolidated Planned Unit Development and Map Amendment for 71, 72, 86, 88, 89, 864, and 866 in Square 247, subject to the following guidelines, conditions, and standards:

1. The Planned Unit Development (PUD) shall be developed in accordance with the plans prepared by Keyes Condon Florance, marked as Exhibit No. 22 of the record, as modified by the guidelines, conditions and standards of the order.
2. The project shall be an office/retail building with a maximum floor area ratio (FAR) of 9.25.
3. The height of the building shall be 110 feet, excluding the roof structure.
4. The total lot occupancy of the project shall not exceed 98.7 percent of the site.
5. The applicant shall provide a minimum of 94 parking spaces, consisting of full size, compact and handicapped spaces. The applicants may provide additional parking through a stacked parking scheme.

6. The project shall include the amenities package proposed as part of this application and described in detail in the findings and record of this case, as follows:
 - a. Housing: Funds in the amount of \$3,062,000 to enable the construction of 209 housing units as part of the Peabody PUD at 5th and I Streets, N.W., within ANC 2C (Square 516). The applicant shall provide the \$3,062,000 amount to the East End Limited Partnership, the developer of the Peabody PUD site, upon the closing of the HUD insured construction loan.
 - b. Design: A superbly designed mixed-use building in the Franklin Square area of Downtown, consistent with the Comprehensive Plan, the Land Use Element and the Downtown Plan.
 - c. Landscape Amenities: The applicant shall provide a streetscape program that meets and exceeds the Streetscape guidelines.
 - d. Traffic Circulation: An easement of 2.5 feet in width along the entire length of applicant's east property line to provide effective width of 20 feet.
 - e. MBOC: A Memorandum of Understanding with the Minority Business Opportunity Commission (MBOC), committing the applicant to use its best efforts to utilize certified minority business enterprises for a minimum of 35 percent of contracted development costs.
 - f. DOES: An employment Agreement with the D.C. Department of Employment Services (DOES), committing the applicant to use DOES as its first source for recruitment, referral and placement of employees, and to use its best efforts to utilize D.C. residents for at least 51 percent of the jobs created by the project.
 - g. Real Estate Taxes: Increased real estate tax revenues.
7. The facade design treatment and materials of the proposed building shall be consistent with the plans marked as part of Exhibit No. 22, dated March 22, 1990 in the

record of the case, consistent with the areas of flexibility requested by the applicant noted in Condition No. 9. The building materials shall be as follows:

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| a. | Predominant masonry material | Light grey and limestone color architectural precast concrete |
| | accent | Grey and black flamed and polished granite |
| b. | Window mullions | Factory Painted Aluminum |
| c. | Office windows | Clear glass and glass with grey tint |
| d. | Retail window mullions | Muntz Bronze Clad Aluminum Window Frames |
| e. | Retail windows | Clear Tempered Glass |
| f. | Retail awnings (optional) | Black and Grey with Muntz Bronze Accents |
| g. | Side walk pavers | D.C. standard precast concrete with grey granite, flamed and polished |
8. The final selection of exterior and interior materials shall be within the color ranges as proposed based on availability at time of construction. However, no building permit shall be issued until the applicant submits exterior material samples for final approval by the Zoning Commission, which may determine to grant without having a further public hearing.
9. The applicant is granted flexibility in the final detailing of the building with respect to the following matters:
- | | |
|----|---|
| a. | Varying the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, provided that the variations do not change the exterior configuration of the building; |
| b. | Making minor adjustments in the facade, window and balcony detailing, including the flexibility to shift the location of the doors to the retail uses on the ground floor and vary the type of paneling used on the retail frontage in order to accommodate the different types of retail uses; |

- c. Varying the location and type of exterior lighting fixtures;
 - d. Varying the species of plant materials;
 - e. Varying landscape and paving details to accommodate utilities' requirements and minor refinements incorporating comments of the streetscape committee;
 - f. Varying the design of the tower, provided that the alternative tower design does not exceed the height of the original tower design.
 - g. Allowing the flexibility permitted pursuant to the provisions of 11 DCMR, Chapter 24.
10. Antennas within the screen walls of the mechanical penthouse areas may be permitted in accordance with the Zoning Regulations.
11. The applicant shall be entitled to receive a building permit when an opinion letter is presented to the Zoning Administrator with a copy to the Zoning Commission that the following have been performed:
- a. The closing of the construction loan on the Peabody project has occurred;
 - b. The funds in cash and letters of credit discussed herein were posted by the applicant, in accordance with the agreement between the parties; and
 - c. That the completion bond and/or the letters of credit required by HUD to assure the construction of the project is in place.
12. The change of zoning from HR/SP-2 to C-4 for the PUD site shall be effective upon recordation of a PUD covenant, pursuant to 11 DCMR 2407.
13. No building permit shall be issued for this PUD until the applicant has recorded a covenant in the Land Records of the District of Columbia, between the owner and the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this order, or amendments thereof, of the Zoning Commission.
14. The Zoning Secretariat shall not release the record of this

on and use this property in accordance with this order, or amendments thereof, of the Zoning Commission.

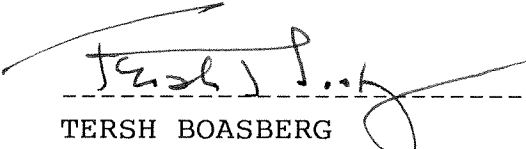
14. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division of the DCRA until the applicant has filed a certified copy of said covenant in the record of the Zoning Commission.
15. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, application must be filed for a building permit as specified in subsection 11 DCMR 2407.1. Construction shall start within five years of the effective date of this order, pursuant to Z.C. Emergency Order No. 687.
16. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25 (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulations Division/DCRA to approve permits, if the applicant fails to comply with any provision of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public meeting on November 19, 1990: 5-0 (Maybelle Taylor Bennett, John G. Parsons, William L. Ensign, and Tersh Boasberg, to approve the PUD and C-4 with conditions and Lloyd D. Smith, to approve by absentee vote).

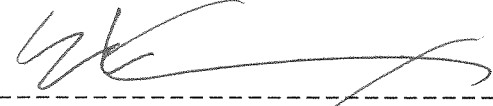
The Commission approved, as amended, the conditions, guidelines and standards, at the public meeting on December 17, 1990.

This order was adopted by the Zoning Commission at its public meeting on February 11, 1991 by a vote of 5-0 (John G. Parsons, Maybelle Taylor Bennett, William L. Ensign, Lloyd D. Smith, and Tersh Boasberg, to adopt as amended).

In accordance with 11 DCMR 3028, this order is final an effective upon publication in the D.C. Register; that is, on MAR - 1 1991.



TERSHER BOASBERG
Chairperson
Zoning Commission



EDWARD L. CURRY
Executive Director
Zoning Secretariat

Comprehensive Plan for the National Capital.

5. The approval of this application is consistent with the purposes of the Zoning Act and the 1938 Act of Congress, the statutory bases for the authority vested in the Zoning Commission.
6. The application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia Zone Plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Zoning Commission has acccorded to the Advisory Neighborhood Commission 2C the "great weight" to which it is entitled.
9. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of this application for a consolidated Planned Unit Development and Map Amendment for 71, 72, 86, 88, 89, 864, and 866 in Square 247, subject to the following guidelines, conditions, and standards:

1. The Planned Unit Development (PUD) shall be developed in accordance with the plans prepared by Keyes Condon Florance, marked as Exhibit No. 22 of the record, as modified by the guidelines, conditions and standards of the order.
2. The project shall be an office/retail building with a maximum floor area ratio (FAR) of 9.25.
3. The height of the building shall be 110 feet, excluding the roof structure.
4. The total lot occupancy of the project shall not exceed 98.7 percent of the site.
5. The applicant shall provide a minimum of 94 parking

manner requested by the applicant. However, substantially the same relief is available.

44. The Commission further finds the following to apply:
- a. That, in addition to, the general economic downturn that has adversely affected the local real estate economy, the proposed PUD housing project at 5th Street and Massachusetts Avenue, N.W. (Peabody site) has encountered some serious financing difficulties;
 - b. That a long-standing city policy to develop housing in the downtown area remains a policy and goals priority;
 - c. That any reasonable effort to facilitate the Peabody development is consistent with the city's policy and goals priority; and
 - d. That the applicant in the instant application may be at considerable risk to transfer more than \$3 million, as an amenity, to help facilitate financing the Peabody PUD project, without some long-term vesting guarantees.
45. The Commission therefore believes that, in its decision, it has adequately and appropriately addressed the above-mentioned concerns.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Chapter 24 to encourage the development of well-planned residential, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
3. The development of this PUD is compatible with city-wide goals, plans and programs and is sensitive to environmental protection and energy conservation.
4. Approval of this application is not inconsistent with the